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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.      | CONFIRMATION NO. |
|-----------------|-------------|----------------------|--------------------------|------------------|
| 10/501,020      | 01/03/2005  | Walter Wrobel        | GK-ZEI-3234/500343.20251 | 3587             |

7590 05/16/2007  
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| EXAMINER |
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BEN, LOHA

|          |              |
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| ART UNIT | PAPER NUMBER |
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2873

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| MAIL DATE | DELIVERY MODE |
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05/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                               |                               |  |
|------------------------------|-------------------------------|-------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/501,020 | Applicant(s)<br>WROBEL ET AL. |  |
|                              | Examiner<br>Loha Ben          | Art Unit<br>2873              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 26-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>0704</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 26-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 26: on lines 3-9, the recitation is narrative in that it fails to provide positional and/or optical relationship between elements.

In claim 28: as now presented, the recitation fails to particularly point out the relationship between the microdisplay or the microscanner mirror and any of the elements called for in claim 26. The claim would read properly if claim 28 depends from claim 27, and on line 2 of claim 28, after "as", -- said -- is inserted.

In claim 37: the content on lines 2 and 3 is provided in a narrative manner. See above.

In claim 39: on line 3, "the optoelectronic component" has no antecedent basis.

In claim 41: on line 2, "the determined data" has no antecedent basis.

In claim 42: on line 2, "the evaluation results" has no antecedent basis.

In claim 43: on lines 2 and 3, "the specific application", has no antecedent basis.

In claim 44: on line 2, "the intended purpose", on line 3, "these data", and on lines 3 and 4, "the illumination source" have each no antecedent basis.

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In claim 45: on line 2, "the eyetracker", on lines 2 and 3, "the generated illumination patterns", and on line 3, "the areas" and "the photosensitive plastic" have each no antecedent basis.

In claim 46: on line 2, "the generated illumination patterns", and on line 3, "the eyetracker unit" have no antecedent basis.

In claim 48: on line 1, "the generated illumination pattern" has no antecedent basis.

In claim 49: on line 2, "the irradiation unit" and "the illumination source", and on lines 2 and 3, "the optoelectronic component" have no antecedent basis. And on line 4, the phrase "such as" is indefinite. See *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); and *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948).

In claim 50: on line 2, "the irradiation unit" and "the illumination source", and on lines 2 and 3, "the optoelectronic component" have no antecedent basis.

The remaining claims depending from rejected base claim(s) inherit the indefiniteness thereof.

#### **Allowable Subject Matter**

Claims 26 and 37 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 28, 39, 41-46 and 48-50 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The allowability of independent claims 26 and 37 centers on the illumination which is variable with respect to time and/or space, and which is used to illuminate the photosensitive, optically active plastics already implanted in a human eye through utilization of the arrangement comprising the elements called for therein.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Loha Ben whose telephone number is (571) 272-2323. The examiner can normally be reached on M-SAT, generally between 12:00 p.m. to 8:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack, can be reached on M-F, at (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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May 12, 2007

A handwritten signature in black ink, appearing to read 'Loha Ben', with a long horizontal stroke extending to the right.

**Loha Ben**  
**Primary Examiner**